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General Services Administration
1800 F Street, NW
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Re: Comments from Friends of the Earth U.S. on Federal Acquisition Regulation: Disclosure of Greenhouse Gas Emissions and Climate-Related Risk (FAR Case 2021-015)

Friends of the Earth U.S. submits these comments to the General Services Administration (GSA), Department of Defense (DoD), and National Aeronautics and Space Administration (NASA) on the proposed rule to amend the Federal Acquisition Regulation to require disclosure of greenhouse gas (GHG) emissions and climate-related risk.[1]

Friends of the Earth US (FoE) is a 501(c)(3) non-profit organization with offices in Berkeley, California and Washington, D.C., where it is headquartered, and staff located across the country. FoE is a membership organization consisting of more than 4.5 million members and activists in all 50 states and the District of Columbia. FoE is a member of Friends of the Earth-International, which is a network of grassroots groups in 74 countries worldwide. Our mission is to protect our natural environment, including air, water, and land, to create a healthier and more just world. We utilize public education, research, advocacy, legislative and administrative processes, litigation, and open access to government processes and records to achieve our organizational goals.

For years, FoE has advocated for leveraging federal, state, and local procurement to support climate, public health, worker well-being, and other social justice objectives, with a particular focus on food and other agricultural commodities linked with deforestation and climate change. FoE has a dedicated Food and Agriculture team that works to build a more healthy, just, and sustainable food system, and an Economic Policy team that works to reform public and private financing of environmentally and socially harmful activities, and to drive the transition to a cleaner, low-carbon economy.

FoE commends GSA, DoD, and NASA for recognizing the potential to leverage the federal government's role as the "largest purchaser in the world" to mitigate climate change by requiring federal suppliers to disclose GHG emissions and climate risk. We appreciate the inclusion of not only Scope 1 and 2 emissions, but also Scope 3 emissions, for major federal suppliers, and the requirement for major federal suppliers to establish a science-based reduction target approved by the Science-Based Targets Initiative (SBTi). FoE recognizes the vital importance of this proposed rule across all sectors but will focus our comments on the benefits to the food and agriculture sector.

[1] These comments include excerpts from comments FoE submitted to the Securities and Exchange Commission in response to File Number S7-10-22 and excerpts comments FoE and Earthjustice submitted to the FAR Council in response to FAR Case 2021-016.

In our comments to follow, we will:

1) Affirm the proposed rule is clearly within the authority of GSA, DoD, and NASA.
2) Articulate the climate, economic, and social benefits of the proposed rule to our food and agriculture system and to taxpayers.
3) Recommend maintaining the strength of the proposed rule by:
   a. requiring disclosure of Scope 3 emissions and the establishment of a science-based target inclusive of Scope 3 emission for all major federal suppliers; and
   b. requiring disclosure of absolute emissions, even when companies have established a science-based target measured by emissions intensity.
4) Recommend strengthening the proposed rule by:
   a. specifying that science-based targets established under the agricultural commodity pathway must be expressed as and result in a reduction in *absolute* emissions;
   b. incorporating a mechanism to require not only the establishment of a science-based target by major federal suppliers but also a mechanism to ensure progress toward meeting that science-based target; and
   c. requiring all major federal suppliers – including those classified as small businesses – to disclose their full GHG emissions and establish an approved science-based target.

I. The proposed rule is squarely within the authority of GSA, DoD, and NASA.

There is no question that the proposed rule – as well as our recommended strengthening language – is within the authority of the GSA, DoD, and NASA. The National Technology Transfer and Advancement Act, 15 U.S.C. §3701 *et seq.*, along with several recent Executive Orders,[2] not only authorizes such action, but mandates it in the public interest. The Federal Government is under the responsibility to utilize the private sector relationships to meet its policy objectives, including combating the climate crisis. Tracking and reporting greenhouse gas emissions and climate-related risk of our contractors' activities is directly related to that objective.

II. The proposed rule will have significant climate, economic, and social benefits to our food and agriculture system, and to taxpayers.

a. Food and agriculture is a major driver of climate change.

Agriculture's climate footprint is vast. The Environmental Protection Agency (EPA) estimates that U.S. agricultural activities – including crop and livestock production – totaled about 629 million metric tons of carbon dioxide equivalent in 2019, accounting for more than 10 percent of

[2] See, *e.g.*, Section 1 of Executive Order 13990 of January 20, 2021, Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis; Section 206 of Executive Order 14008 of January 27, 2021, Tackling the Climate Crisis at Home and Abroad; Section 5(b)(i) of Executive Order 14030 of May 20, 2021, Climate-Related Financial Risk; Section 302 of Executive Order 14057 of December 8, 2021, Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability; and Section II.1. of the accompanying Office of Management and Budget Memorandum M-22-06.

all U.S. GHG emissions.[3] These emissions consist largely of nitrous oxide (N_2O) from soil and methane from livestock and manure. Agriculture is responsible for approximately 80 percent of U.S. N2O emissions and 40 percent of U.S. methane emissions—equivalent to the entire oil and gas sector's production emissions.[4] Agriculture is also responsible for more U.S. methane emissions than any other sector.[5] Notably, methane emissions from agriculture are continuing to increase even as emissions from virtually every other sector are decreasing.[6]

EPA's GHG emissions calculation for agriculture significantly underestimates food production's impact on climate change. It does not include the current climate change impacts of prior land conversion and the lost opportunity of land in cultivation to sequester and store carbon in the soil. Moreover, it does not include emissions from on-farm energy, annual or prior land use conversion, production of agricultural inputs, or other components of the food system. And it does not use relevant timescales when considering the short-term global warming potential of certain GHGs such as methane. When adjusting to take these factors into consideration, food production is responsible for approximately one-third of all U.S. GHG emissions.[7]

b. Requiring major federal suppliers to disclose and reduce their greenhouse gas emissions is a natural and necessary evolution of a long history of leveraging federal procurement for environmental goals.

In response to the 1973 Arab oil embargo, President Nixon directed the federal government to reduce its energy consumption by acquiring fuel-efficient vehicles, reducing air conditioning use, and cutting back on travel.[8] Since then, Congress has addressed federal energy consumption in several major energy laws. In the Energy Policy Act of 2005, Congress established energy reduction goals for federal agencies, including a renewable energy purchasing target reduction of 7.5 percent by 2013. The federal government not only met that goal but by doing so, helped spur private sector investment in renewable energy that rippled across the rest of the economy.

In 1976, Congress passed the Resource Conservation and Recovery Act, which directed the EPA to identify products made with recycled waste materials or solid waste by-products and to develop guidance for purchasing those products. Today, EPA's Environmentally Preferable

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[3] *See* "Inventory of U.S. Greenhouse Gas Emissions and Sinks, 1990-2019," EPA, last modified 2021, https://www.epa.gov/sites/production/files/2021-04/documents/us-ghg-inventory-2021-main-text.pdf. The 2019 emissions are more than 1% higher than those from just the prior year, 2018.

[4] *See* "Overview of Greenhouse Gases," EPA, last modified May 16, 2022, https://www.epa.gov/ghgemissions/overview-greenhouse-gases.

[5] *Id.*

[6] *See* "Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2020," EPA, *U.S. Environmental Protection Agency, EPA 430-R-22-003,* last modified 2021, https://www.epa.gov/sites/production/files/2021-04/documents/us-ghg-inventory-2021-main-text.pdf. Table 2-7

[7] *See* Monica Crippa et al., "Food Systems Are Responsible for A Third of Global Anthropogenic GHG Emissions," *Nature Food* 2 (2021): 198-209; *See also* Sonja J. Vermeulen, Bruce Campbell, and John Ingram, "Climate Change and Food Systems." *Annual Review of Environment and Resources*, 37 (2012): 195-222.

[8] Dorothy Robyn, "Mission, Money, and Process Makeover: How Federal Producrement Can Catalyze Clean Energy Investment and Innovation," Information Technology & Innovation Foundation, last modified August 15, 2022, https://itif.org/publications/2022/08/15/mission-money-and-process-makeover-how-federal-procurement-can-catalyze-clean-energy-investment-and-innovation/.

Purchasing Program includes environmentally preferable standards or ecolabels for more than 30 purchase categories ranging from copy paper to cloud services.[9]

For the federal government to build on this history by effectively targeting its purchasing toward the essential goal of reducing greenhouse gas emissions from purchased goods and services, it needs the transparency and cooperation from its suppliers proposed in this rule.

Federal food procurement has been leveraged to stabilize the American farm economy, support American producers, and feed American children and families from the Federal Surplus Relief Corporation in 1933[10] to the Farm to Families Food Box Program in 2021.[11] However, until E.O. 14057 established a goal of achieving net-zero procurement emissions (inclusive of food emissions), no policy has attempted to use federal food purchasing to support environmental goals despite the immense potential to do so. Thus, requiring disclosure and reduction of GHG emissions from major federal food suppliers is a critical step to addressing this untapped area for emissions reductions.

c. The federal government's food purchasing has a significant GHG footprint, and there are ample opportunities to achieve reductions.

In the same way that the federal government has catalyzed the transitions to clean energy and recycled products through its own purchasing, it can spur a transition to a more climate-friendly food system by leveraging its food procurement.

The federal government purchases more than $10 billion[12] worth of food each year for children in schools, military service members, veterans, people incarcerated in federal prisons, federal employees, patients in federal medical facilities, and more. The federal government has not yet conducted a baseline assessment for emissions associated with its food purchasing, so it is difficult to estimate the emissions associated with these purchases. Requiring disclosure of supplier emissions will be an important tool for the federal government to establish this baseline assessment.

Given the food and agriculture system's large climate footprint and the scope and scale of federal food purchasing, we expect emissions associated with federal food purchasing to be significant. This impact is illustrated by a carbon footprinting analysis of just one federal food purchasing program, the USDA Foods Program. Based on one year of purchasing data, FoE calculated an embedded carbon footprint of 19.1 million metric tons of CO_2-e associated with $1.3 billion of food purchasing for this program.[13] Notably, our analysis found that 98 percent of the emissions

[9] "Recommendations of Specifications, Standards, and Ecolables for Federal Purchasing," EPA, last modified November 1, 2022, https://www.epa.gov/greenerproducts/recommendations-specifications-standards-and-ecolabels-federal-purchasing.
[10] Gordon Gunderson, "The National School Lunch Program: Background and Development," U. S. Government Printing Office, 1971, https://fns-prod.azureedge.us/sites/default/files/resource-files/NSLP-program-history.pdf.
[11] "USDA Farmers to Families Food Box," USDA Agricultural Marketing Service, last updated May 28, 2021, https://www.ams.usda.gov/selling-food-to-usda/farmers-to-families-food-box.
[12] This is a conservative estimate based on reports from FPDS.gov.
[13] *See* Chloë Waterman, "USDA Foods: How A $1.3 Billion Program can be Transformed to Create a More Just and Healthy Food System," Friends of the Earth, last modified 2021, https://foe.org/usda-foods.

associated with this program were associated with animal products. We calculated that replacing 25 percent of USDA's beef, pork, chicken, and cheese purchases with plant-based sources of protein would save 4 million metric tons of CO_2-e annually, which is equivalent to taking every registered automobile in Mississippi off the road.[14] The savings in terms of the social cost of carbon (measured at $51 per metric ton) from this shift equals $204 million.

Project Drawdown, an initiative led by Paul Hawken, evaluated hundreds of climate mitigation strategies and ranked plant-rich diets and reducing food waste among the most high-impact strategies.[15] Federal food procurement is a crucial point of leverage to pursue both strategies, and requiring federal suppliers to disclose emissions and set science-based targets will not only incentivize suppliers to pursue these strategies but will also enable the federal government to better understand which federal suppliers are effectively pursuing these climate mitigation strategies and give preference to those suppliers in procurement decisions. See Friends of the Earth and Earthjustice's comments in response to FAR Case 2021-16 for proposals for how the federal government can amend the FAR to incorporate climate risk into food procurement decisions.[16]

d. Reductions in food-related emissions, aided by supplier emissions disclosures and reductions, is a cost-effective climate mitigation strategy for the federal government with co-benefits to public health.

Importantly, shifting to plant-rich diets and reducing food waste are cost-effective strategies, and can even result in food cost savings for the federal government. Plant-based sources of protein such as lentils, beans, and soy products tend to be less expensive than meat, and reducing food waste can lead to a reduction in food purchasing volume and the cost savings that come with it.

A FoE analysis of food purchasing data from Oakland Unified School District's (OUSD) school meal program found that by replacing some animal product purchases with plant-based sources of protein, the district was able to reduce its carbon footprint by 14 percent.[17] OUSD used food cost savings to purchase more fresh and local produce and organic and humanely raised meat, which helped increase student meal satisfaction. Even after accounting for the costs of that produce and higher quality meat, OUSD saved $42,000 per year (1 percent per meal) on annual food costs. To have achieved the same reduction in GHG emissions by installing solar panels, OUSD would have had to install 87 solar panels at a cost of $2.1 million. Instead, combining the GHG savings in terms of the social cost of GHG emissions with the food costs savings, OUSD's menu shifts saved $75,000 annually.

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[14] *Id.*

[15] Paul Hawken, "Table of Solutions," Project Drawdown, last modified 2023, https://drawdown.org/solutions/table-of-solutions. Plant-rich diets and reduced food waste are among the top five most effective strategies in both scenarios considered.

[16] "Comments on FAR Case 2021-016," Friends of the Earth and Earthjustice, last modified January 13, 2021, http://foe.org/wp-content/uploads/2022/02/11.13.2022-Comments-on-Fed-Procurement-Climate-Strategies-FINAL.pdf

[17] Kari Hamerschlag and Julian Kraus-Polk, "Shrinking the Carbon and Water Footprint of School Food: A Recipe for Combatting Climate Change." Friends of the Earth, last modified 2017, https://foe.org/wp-content/uploads/2017/11/FOE_FoodPrintReport_7F.pdf.

An analysis of Health Care Without Harm's 'Balanced Menus: Less Meat Better Meat' program found the same pattern: Four San Francisco Bay Area hospitals generated an estimated food service savings of $400,000 per year.[18]

A 2017 report from Champions 12.3 evaluated financial cost and benefit data from food waste initiatives at 1,200 sites across 700 companies in 17 countries and found that for every dollar invested in reducing food waste, companies saved $14 in operating costs.[19] The savings across federal foodservice operations could be enormous.

Finally, shifting to plant-rich federal menus would foster greater alignment with the *Dietary Guidelines for Americans* recommendations to diversify protein intake, increase fiber intake, increase fruit and vegetable intake, and replace processed meat consumption with beans, peas, and lentils.[20] The Academy of Nutrition and Dietetics, the American Heart Association, the American Cancer Society, the American College of Lifestyle Medicine, and other leading health organizations agree that eating more whole, plant-based foods is an important strategy to prevent chronic diseases, manage chronic conditions, and promote overall health.[21] In particular, reducing red and processed meats – which are also among the most carbon-intensive foods in our diets – has been shown to reduce the risk of heart disease, diabetes, hypertension, and certain forms of cancer.[22]

Diet-related diseases are costly, and the federal government bears a significant portion of those costs. A Government Accountability Office (GAO) report calling for a federal strategy to coordinate efforts to combat diet-related disease found that federal government spending to treat cardiovascular disease, cancer, and diabetes accounted for 54 percent of the $383.6 billion in healthcare spending on these conditions in 2018.[23] Shifting toward climate-friendly menus that feature plant-based sources of protein, whole grains, fruits, vegetables, legumes, nuts, and seeds would improve the diets of the millions of Americans who rely on federal foodservice, saving lives and healthcare costs.

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[18] Lisa Lagrasse and Roni Neff, "Balanced Menus: A Pilot Evaluation of Implementation in Four San Francisco Bay Area Hospitals," Johns Hopkins School of Public Health, Center for a Livable Future, last modified April 10, 2010, https://clf.jhsph.edu/publications/balanced-menus-pilot-evaluation-implementation-four-san-francisco-bay-area-hospitals.

[19] "Release: New Research Finds Companies Saved $14 for Every $1 Invested in Reducing Food Waste," World Resources Institute, last modified March 6, 2017, https://www.wri.org/news/release-new-research-finds-companies-saved-14-every-1-invested-reducing-food-waste.

[20] "Dietary Guidelines for Americans 2020- 2025, 9th Edition," USDA, Accessed January 4, 2023, https://www.dietaryguidelines.gov/resources/2020-2025-dietary-guidelines-online-materials.

[21] See The Benefits of Plant-Based Nutrition, Am. College of Lifestyle Med. (2021), https://lifestylemedicine.org/project/evidence-resources/.

[22] *See* "More Evidence for Replacing Red Meat with other Protein Sources," Harvard T. Chan School of Public Health, last modified, Mar. 10, 2020, https://www.hsph.harvard.edu/news/hsph-in-the-news/replacing-red-meat-with-other-protein/ *see also* "IARC Monographs Evaluate Consumption of Red Meat and Processed Meat," World Health Organization International Association of Research on Cancer, last modified October 26, 2015, https://www.iarc.who.int/wp-content/uploads/2018/07/pr240_E.pdf.

[23] "Chronic Health Conditions: Federal Strategy Needed to Coordinate Diet-Related Efforts," U.S. Government Accountability Office, last modified August 17, 2021, https://www.gao.gov/products/gao-21-593.

Requiring major federal food suppliers to disclose and reduce their emissions will not only help incentivize companies to deploy these cost-effective emissions reductions strategies but will provide a triple benefit in terms of improving health outcomes for people reliant on federal foodservice programs and reducing food and healthcare costs to American taxpayers.

e. Supplier emissions disclosure and reduction are key to meeting the federal government's procurement target and ensuring transparency and accountability.

In E.O. 14057, the federal government pledged to achieve net-zero emissions from procurement by 2050,[24] and the Office of Management and Budget's implementing instructions direct federal agencies to develop and annually report on progress toward an FY2030 interim reduction target.[25] Disclosure and reduction of federal supplier emissions will be key to measuring progress and managing emissions in order to meet the goal.

As stated in the proposed rule, "[w]ithout knowledge of existing 'hot spots' (emissions-intensive sectors and activities) and cost-effective emissions reduction opportunities, it may be difficult for Federal agencies and contractors to understand where to start in seeking to reduce emissions, how to prioritize emissions reduction programs and activities, and how much to invest in each."

Indeed, understanding the emissions associated with major federal food suppliers' supply chains will help the federal government identify the most emissions-intensive goods and services that it is procuring and target effective emissions reductions strategies to those sectors.

Take, for example, the federal government's foodservice, a significant portion of which is contracted to foodservice management companies that set menus and make food procurement decisions. Sodexo, the federal government's largest foodservice provider, has a validated science-based target inclusive of its Scope 3 emissions and reports on its emissions annually through CDP. Vectrus Systems Corporation, a major military contractor that operates dining facilities, is not disclosing any of its emissions. Without Vectrus disclosing its emissions, the federal government will have a harder time estimating the emissions associated with its contracts, and the government cannot readily compare suppliers (and award preferences) based on their relative climate impacts. On the other hand, if both companies were to disclose their emissions as would be required under the proposed rule, the federal government would benefit in several ways.

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[24] Friends of the Earth, along with hundreds of other groups, believes that "net-zero" pledges distract from real climate solutions and advocates for absolute emissions reductions targets that exclude offsets. Net-zero pledges are premised on unjust offsetting schemes and removals of massive quantities of carbon from the atmosphere through unproven technologies, large-scale land grabs, and/or interference in the Earth's climate system via geoengineering. They also perpetuate environmental racism and injustice, including maintenance of pollution hotspots in BIPOC and low wealth communities. *See* "Net Zero is a Dangerous Distraction," Friends of the Earth, last modified October 27, 2021, https://foe.org/wp-content/uploads/2021/11/2021.10.27-Net-Zero-Is-A-Dangerous-Distraction-NGO-letter-final-2.pdf. FoE is eager for federal agencies to establish interim reduction targets and urges GSA and CEQ to use a methodology for establishing baseline emissions an tracking emissions reductions that excludes offsets, consistent with the Greenhouse Gas Protocol Corporate Value Chain (Scope 3) Accounting and Reporting Standard.

[25] "Implementing instructions for Executive Order 14057," The White House Council on Environmental Quality, last modified August 2022, https://www.sustainability.gov/pdfs/EO_14057_Implementing_Instructions.pdf.

1) Emissions disclosures could aid the federal government in using a supplier-based methodology to estimate the emissions associated with federal foodservice contracts with these two companies. Baselining and tracking emissions is necessary to measure progress toward the net-zero procurement target established by EO 14057.
2) If the FAR is updated to authorize preferences or evaluation criteria that include services with a lower social cost of greenhouse gas emissions, acquisition managers can use the information from suppliers' emissions disclosures to select the supplier that will have a lower social cost of GHG emissions for a given contract opportunity.
3) By incentivizing emissions reduction (especially for major suppliers), the federal government not only will have a lower carbon footprint associated with its own contracts but will create a ripple effect since most federal contractors also have a significant carbon footprint from their private sector business, triggering emissions reductions and savings across the entire economy.

f. Most food, agriculture, and forest products corporations lack sufficient disclosure of GHG emissions and climate-related risks, and very few have established science-based targets inclusive of Scope 3 emissions.

The accounting firm EY reports that "[t]he agriculture, food and forest products sector performed the worst of all nonfinancial sectors," in terms of the quality of climate change disclosures.[26] There were significant disparities in quality and coverage among various companies and noticeably among different countries, with companies from the least regulated markets scoring the lowest.[27] Overall, companies provided little information of their governance structure as it relates to climate-related issues.[28] Additionally, many companies acknowledged that their company had some form of climate risk management integrated into their company's general strategy, few if any additional details were provided.[29] The report noted that many companies did submit their climate-risk targets and metrics.[30] However, "few reported their Scope 3 emissions with clear boundaries and methodology."[31]

In 2019, Ceres analyzed emissions disclosures from 50 of the top food and beverage companies in the U.S. and Canada and found that only 16 of the companies were reporting on comprehensive Scope 3 emissions.[32] Of those companies, only nine had explicit targets to reduce Scope 3 emissions, despite the fact that 75-90 percent of a typical food product's carbon footprint occurs upstream of the point of sale.[33]

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[26] Mathew Nelson, "How the Agriculture Sector Adopted Climate-Related Disclosures," EY, last modified Jun. 1, 2020, https://www.ey.com/en_us/climate-change-sustainability-services/how-the-agriculture-sector-adopted-climate-related-disclosures.
[27] *Id.*
[28] *Id.*
[29] *Id.*
[30] *Id.*
[31] *Id.*
[32] "Engage the Chain," Ceres, last modified 2019, https://engagethechain.org/top-us-food-and-beverage-companies-scope-3-emissions-disclosure-and-reductions.
[33] M. Tidy, Xiaojun Wang, and M. Hall, "The Role of Supplier Relationship Management in Reducing Greenhouse Gas Emissions from Food Supply Chains: Supplier Engagement in the UK Supermarket Sector," *Journal of Cleaner Production* 112, no. 4 (2016): 3294-3305.

These findings were echoed in a 2021 analysis by Changing Markets Foundation, which found that only three of the top 20 meat and dairy companies set science-based targets that include scope 3 emissions, and that none of the companies report methane emissions separately or have concrete targets or action plans for methane reduction.[34]

There is a clear need to compel agricultural companies to disclose GHG emissions and climate-related risk, and specifically to compel more complete and meaningful Scope 3 emissions reporting. Procurement is a crucial point of leverage to compel these disclosures.

g. The proposed rule would compel the disclosure and reduction of Scope 3 emissions from several major food and agriculture companies that are currently failing to disclose and reduce their emissions.

According to our analysis[35] of the 50 largest U.S. food and beverage companies,[36] nine companies (or a major subsidiary of one of the companies) would have been considered a major federal supplier for at least one of the last five fiscal years (FY2018-FY2022): Tyson Foods Inc., Cargill Inc., Prairie Farms Dairy, JBS USA, Hormel FoodsCorp., Dairy Farmers of America, Trident Seafoods Corp., Saputo Inc., and Pilgrim's Pride. Only two of the nine are currently disclosing their Scope 3 GHG emissions and have a science-based target inclusive of Scope 3 emissions that is validated by SBTi.[37]

By compelling these companies to disclose and reduce their Scope 3 emissions, this rule would not only create the transparency and accountability needed to measure and manage the federal government's own food procurement-related emissions. The rule would also reveal crucial climate risk information to and help inform climate mitigation strategies for consumers, state and local governments, investors, regulators, and other businesses.

h. Climate change severely threatens our food and agriculture system, and mitigating it presents major economic and social benefits to farmers and ranchers, farmworkers, rural communities, food businesses, taxpayers, and all eaters.

Climate change will continue to alter patterns of temperature and precipitation, the frequency and severity of storms, floods, droughts, wildfires, and other extreme weather events, and increase risks of pest and disease outbreaks.[38] Each of these compounding impacts poses an ongoing

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[34] "Blindspot: How a lack of action on livestock methane emissions undermines climate targets," Changing Markets Foundation, last modified October 2021, http://changingmarkets.org/wp-content/uploads/2021/10/Blindspot_methane-English.pdf.

[35] Friends of the Earth conducted an analysis using federal food purchasing spending data on usaspending.gov, annual reports available through CDP, and science-based targets available on the SBTi corporate database.

[36] "Food Processing's Top 100 - 2021," Food Processing, last modified 2023, https://www.foodprocessing.com/top100/2021.

[37] This includes Hormel FoodCorp, which has committed to a science-based target that is not yet validated.

[38] *See* Intergovernmental Panel on Climate Change, *Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change*, eds. T. F. Stocker et, al., (Cambridge, United Kingdom and New York, NY, USA, Cambridge University

threat to food system supply chains. Many of these impacts — including increased pest, weed, and disease outbreaks, intense and variable weather events, and shifts in plant and animal migrations and ranges — are already underway and are expected to continue for several decades at a minimum.[39]

As a result of these impacts, climate change directly threatens crop productivity, with projections suggesting that it could reduce global crop production by 9 percent in the 2030s and by 23 percent in the 2050s.[40] Higher temperatures are associated with declines in crop yields for many crops,[41] and increasingly frequent floods and droughts are predicted to result in additional crop damage and risks to livestock. A recent study in *Nature Climate Change* estimates that climate change has already led to losing the equivalent of seven years of productivity growth.[42] Among other climate-related challenges, heat stress negatively affects livestock health and increases susceptibility to disease. These impacts translate into reductions in livestock productivity and declines in feed efficiency and pose serious concerns for animal welfare.[43]

In addition to threatening crop and livestock productivity overall, climate change poses a direct threat to essential goods and materials underlying production, including soil health, pollinators, and water quantity and quality. Increases in extreme weather, fires, and warming all jeopardize soil health and accelerate losses of stored carbon and nutrients in soil. Shifts in temperature impact pollinator ranges, migrations, and the synchronization of biological events such as the timing of pollinator activities and crop emergence.[44] Increasingly frequent droughts and extreme precipitation events threaten water quality and quantity. Furthermore, increases in disease and pest risks associated with climate change contribute to declines in pollinator health and abundance.

The costs associated with these risks are massive and will be borne by the federal government in the forms of increased crop insurance payouts, disaster recovery and payments, and increased food costs associated with procurement and federal feeding programs. Costs will also be borne by producers in the form of lost profits from lower productivity, increases in input and adaptation costs, and disaster cleanup costs beyond what the federal government covers. All Americans will

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Press, 2013), https://www.ipcc.ch/report/ar5/wg1/*; see also* Intergovernmental Panel on Climate Change, *Climate Change 2014: Impacts, Adaptation and Vulnerability. Part A: Global and Sectoral Aspects. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change, eds. R. K. Pachauri and L. A. Meyer, (Geneva Switzerland, IPCC, 2014),* https://www.ipcc.ch/report/ar5/syr/.

[39] *See* Peter Backlund et al., *The Effects of Climate Change on Agriculture, Land Resources, Water Resources, and Biodiversity in the United States*, U.S. Climate Change Science Program & the Subcommittee on Global Change Research (Washington D.C., USDA, 2008), https://www.usda.gov/sites/default/files/documents/CCSPFinalReport.pdf.

[40] *See* Mekbib G. Haile et al*.,* "Impact of Climate Change, Weather Extremes, and Price Risk on Global Food Supply," *Econ. of Disasters & Climate Change* 1, no. 1 (2017): 55-75, https://doi.org/10.1007/s41885-017-0005-2.

[41] *See* A. J. Challinor et al*., "*A Meta-analysis of Crop Yield Under Climate Change and Adaptation*," Nature Climate Change* 4, no. 1 *(2014): 287-291.*

[42] A. Ortiz-Bobea et al., "Anthropogenic climate change has slowed global agricultural productivity growth," *Nature Climate Change* 11 no. 1 (2021): 306-312, https://www.nature.com/articles/s41558-021-01000-1.

[43] *See* Umberto Bernabucci, "Climate Change: Impact on Livestock and How Can We Adapt," *Animal Frontiers* 9, no. 1, (2019): 3-5, doi: 10.1093/af/vfy039.

[44] *See* Adam J. Vanbergen & The Insect Pollinators Initiative, "Threats to an Ecosystem Service: Pressures on Pollinators, *Frontiers Ecology & Env't* 11, no. 5, (June 1, 2013): 251-259, https://doi.org/10.1890/120126.

experience these costs in terms of rising food prices, food scarcity, and lower nutrient content of food.[45]

These costs are already evident. A recent study in *Environmental Research Letters* by Stanford University climate scientists found that temperature increases from climate change generated an estimated $27 billion in insurance payments to farmers between 1991 and 2017.[46] Another analysis by Environmental Working Group found that of the $143.5 billion in federal crop insurance payments from 1995-2020, just under two thirds was paid out for crop damage from drought and excess moisture exacerbated by the climate crisis.[47]

In 2022, Congress authorized $10 billion in assistance to agricultural producers impacted by wildfires, droughts, hurricanes, winter storms, and other eligible disasters in 2020 and 2021.[48]

Climate change also poses a grave threat to the health and safety of farmworkers, who are often on the frontlines of experiencing the impacts of climate change on agriculture. The Center for Disease Control and Prevention estimates that the number and rate of deaths among crop workers due to heat stress have dramatically increased from 1992 to 2006, with hundreds of farmworkers dying from heat-related causes over the study period.[49] Many more farmworkers experience health impacts from heat stress, including heat exhaustion, stroke, and other illnesses.[50] With projections of increased summer temperatures and heat waves, farmworkers are likely to experience more frequent heat stress with climate change.

i. Disclosing Scope 3 emissions and establishing a science-based target is completely feasible for major suppliers and will not result in undue burdens for the farmers and ranchers who supply them.

In response to the SEC's proposed climate disclosure rule (File Number S7-10-22), agriculture industry lobbying groups have falsely claimed that requiring Scope 3 emissions disclosure would impose undue technical and compliance burdens on family farmers and risk revealing private information from family farms. This is not true for SEC's proposed rule, and it would not be true

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[45] *See* C. Sweeney, "As carbon dioxide levels climb, millions at risk of nutritional deficiencies," Harvard TH Chan School of Public Health, last modified August 27, 2018, https://www.hsph.harvard.edu/news/press-releases/climate-change-less-nutritious-food/.

[46] Noah Diffenbaugh, Frances Davenport, and Marshall Burke, " Historical warming has increased U.S. crop insurance losses," *Environmental Research Letters* 16, no. 8 (2021), https://iopscience.iop.org/article/10.1088/1748-9326/ac1223.

[47] Anne Schechinger, "Crop Losses from Climate Crist Cost Billions of Dollars in Insurance Payouts," Environmental Working Group, last modified January 27, 2022, https://www.ewg.org/research/crop-losses-climate-crisis-cost-billions-dollars-insurance-payouts.

[48] "USDA Previews Crop and Revenue Loss Assistance for Agricultural Producers," United States Department of Agriculture Farm Service Agency, last modified November 15, 2022, https://www.fsa.usda.gov/news-room/news-releases/2022/usda-previews-crop-and-revenue-loss-assistance-foragricultural-producers#:~:text=ERP%20is%20authorized%20under%20the,calendar%20years%202020%20and%202021.

[49] *See* R. C. Luginbuhl et al., "Heat-Related Deaths Among Crop Workers– United States, 1992-2006," *Morbidity & Mortality Weekly Report* 57, no. 24, (2008): 649-653.

[50] *See* Pamela Rao, *Heat Related Illnesses: An Occupational Health Concern for Farmworkers* (Farmworker Justice and Migrant Clinicians Network, 2007), https://www.migrantclinician.org/files/resourcebox/heat_monograph.pdf.

for this proposed rule. This proposed rule requires companies to report their emissions in alignment with the GHG Protocol Corporate Accounting and Reporting Standard. The GHG Protocol Agricultural Guidance specifies the types of data that may be needed to estimate GHG emissions from on-farm sources and states that "activity data can often be collected from existing data records held by producers, such as: invoices, electricity meters, crop insurance records, field records of tractor passes and crop operations, production records, land registry records, nutrient management plans, and livestock movement records."[51] The guidance acknowledges that it is not always possible to collect high-quality activity data for all emissions sources (i.e. all farms) and offers guidance on prioritizing data collection efforts to achieve the most accurate estimates. The protocol is clear in allowing estimates based on emissions factors and empirical and process-based models, neither of which requires field measurements on individual farms. The methodologies companies can use to comply with this requirement are highly feasible and already in use by dozens of companies that are tracking agricultural sector Scope 3 emissions.

III. FoE Recommendations for Maintaining the Strength of the Proposed Rule

a. Require disclosure of Scope 3 emissions and the establishment of a science-based target inclusive of Scope 3 emission for all major federal suppliers.

It is of paramount importance that GSA, DoD, and NASA require disclosure and reduction of Scope 3 emissions for major suppliers, as this is where the bulk of many industry emissions, including for the food and agriculture sector, can occur. The $50 million threshold for considering a supplier a "major supplier" in the proposed rule should not be raised. While still valuable, Scope 1 and 2 emissions disclosures provide a very limited view into a food company's greenhouse gas emissions and therefore offer limited utility to the federal government as it works to implement climate-friendly food purchasing strategies. Including Scope 3 emissions disclosures and reductions for major suppliers is the heart of this rule and must be maintained in the final rule.

Food systems make up one third of global human-created GHG emissions, the majority of which fall under Scope 3.[52] In fact, 90-95 percent of a food manufacturer's emissions fall under Scope 3.[53] This includes GHG emissions from processes like land-use changes, agricultural production, packaging, and waste management.[54] Moreover, the increasing population and demand for food means that these emissions are on a trajectory to increase absent significant changes in policy. According to the UN, 16.5 billion tonnes of GHGs were emitted from global agri-food systems in 2019, and of this, 7.2 billion tonnes came from within the farm gate, 3.5 billion came from

[51] Greenhouse Gas Protocol, "GHG Protocol Agricultural Guidance." https://ghgprotocol.org/sites/default/files/standards/GHG%20Protocol%20Agricultural%20Guidance%20%28April%2026%29_0.pdf

[52] *See*: "Food Systems account for more than one third of global greenhouse gas emissions," FAO, accessed January 4, 2023, https://www.fao.org/news/story/en/item/1379373/icode/.

[53] Dean Best, "The challenges facing food manufacturers on Scope 3 emissions," JustFood.com, last modified Feb. 11, 2022, https://www.just-food.com/features/the-challenges-facing-food-manufacturers-on-scope-3-emissions/.

[54] FAO, *supra* note 23.

land use change, and 5.8 billion came from supply-chain processes.[55] As discussed in Section II(f), these industries are largely failing to disclose their full emissions.[56]

The Scope 3 emissions in the food and agriculture industries are embedded in the production of agricultural commodities from supply chains of major companies that source, manufacture, distribute, and sell agricultural products.[57] Different areas of these supply chains may remain outside the control of registered organizations, but these organizations should account for the emissions created across their value chain by disclosing Scope 3 emissions. It is essential that these industries disclose and reduce their GHG emissions across their entire value chain to achieve emissions reductions in alignment with the broader goals of this rulemaking.

b. Require disclosure of absolute emissions, even when companies have established a science-based target measured by emissions intensity.

By requiring disclosure of emissions in accordance with the portions of the CDP Climate Change Questionnaire aligned with the Task Force on Climate-Related Financial Disclosures (TCFD), this proposed rule would require disclosure of absolute emissions, including Scope 3 emissions, for major federal suppliers.

Mandatory reporting on absolute emissions is essential to understand and disclose aggregate emissions that can otherwise be camouflaged when only emissions intensity is reported. While emissions intensity is a useful metric for understanding and comparing the efficiency of sources of emissions, absolute emissions are necessary for understanding and capturing the full picture of climate risk. Reducing climate related risk is ultimately dependent on reducing absolute emissions, as the climate only cares about absolute GHG emissions.

Food and agriculture corporations have a history of only reporting on emissions intensity metrics while ignoring the more important metric of absolute emissions.

According to the EPA's most recent draft inventory of GHG emissions through 2020, emissions from the food and agricultural sectors have continued to grow while emissions from other sectors are on the decline.[58] These increases have happened even while many food and agriculture industries have been able to reduce emissions intensity. For example, in the dairy sector, despite a pledge made by the Obama Administration and a dairy industry group in 2009 to reduce emissions by 25 percent by 2020, absolute methane emissions from dairy have risen by more than 15 percent, in part due to increases in herd sizes, even as emissions intensity for the sector has decreased.[59] To get a clear picture of the GHG footprint of these industries and prevent

[55] "New FAO analysis reveals carbon footprint of agri-food supply chain," UN News, last modified November 8, 2021, https://news.un.org/en/story/2021/11/1105172.
[56] CERES, *supra* note 22.
[57] "Food Emissions 50," Ceres, accessed January 4, 2023, https://www.ceres.org/climate/ambition2030/food-emissions-50#about-the-initiative.
[58] "Inventory of U.S. Greenhouse Gas Emissions and Sinks," EPA, accessed May 4, 2022 https://www.epa.gov/ghgemissions/inventory-us-greenhouse-gas-emissions-and-sinks.
[59] Douglas, L. and Groom, N. "Biden spending bill ignites debate over dairy methane pollution," (2022). https://www.reuters.com/markets/commodities/biden-spending-bill-ignites-debate-over-dairy-methane-pollution-2022-01-11/

greenwashing, it is crucial that the final rule include the requirement for large companies in the food and agriculture sector to fully disclose Scope 3 emissions in both absolute and intensity terms.

IV. FoE Recommendations for Strengthening the Rule

a. Specify that science-based targets established under the agricultural commodity pathway must be expressed as and result in a reduction in *absolute* emissions.

The 2022 Food, Land Use, and Agriculture (FLAG) guidance from the Science-Based Targets Initiative enables companies to use a commodity-based approach for 11 commodity pathways (and requires that pathway for forest and timber products). Companies' commodity-specific targets are in the form of emissions intensity reductions. FoE and many other organizations have expressed concerns that allowing companies to create emissions intensity targets in lieu of absolute emissions targets will fail to encourage the shift away from emissions-intensive commodities like beef, pork, and palm oil toward increased production of more sustainable alternatives (e.g. plant-based sources of protein) that are necessary to meet the Paris Agreement targets.[60] While FoE would prefer that companies be required to set science-based targets for absolute emissions reduction, we also understand the federal government's need to rely on third-party methodologies and conforming assessment bodies for target-setting and disclosure. Crucially, the FLAG guidance will not approve an emissions intensity science-based target that will not result in a reduction in absolute emissions, making the FLAG guidance acceptable for the federal government to rely on in its current form.

However, for consistency and transparency in reporting across different sectors, the final rule should specify that emissions intensity targets approved by SBTi must also be *expressed* as a change in absolute emissions.

Further, a risk of relying on a third-party entity, in this case the Science-Based Targets Initiative, to validate science-based targets, is that SBTi could weaken its FLAG guidance such that an emissions intensity target for a company using the commodity pathway(s) could be validated as a science-based target even if the intensity target would still lead to an increase in absolute emissions. To account for this, the proposed rule should specify that major federal suppliers are required to establish a science-based target that is both *expressed as* an absolute emissions reduction and *results in* an absolute emissions reduction.

b. Incorporate a mechanism to require not only the establishment of a science-based target by major federal suppliers but also a mechanism to ensure progress toward meeting that science-based target.

GSA, DoD, and NASA are right to require major federal suppliers to disclose GHG emissions and establish an approved science-based target in order to be considered responsible bidders.

[60] Amazon Watch. "The Science Based Targets Initiative's Proposed Forests, Land, and Agriculture (FLAG) Tarets Are a Corporate Gift to Big Agribusiness, Say Environmental Organizations," (2022). https://amazonwatch.org/news/2022/0217-the-science-based-targets-initiatives-proposed-flag-targets-are-a-corporate-gift-to-big-agribusiness

Using compliance with the GHG disclosure and reduction requirements as a determining factor for supplier responsibility is an appropriate mechanism to achieve these goals.

However, FoE is concerned that the proposed rule does not include a mechanism to ensure that major federal suppliers are on track to meet or have met their science-based targets. For example, say company x was annually disclosing its emissions and had established a science-based target validated by SBTi in 2023, but that by 2026, its emissions were increasing. Under the proposed rule, company x would be considered a responsible bidder in 2026 because it has met the requirements under Subpart 23.xx03. Even if the supplier had established a science-based target with a deadline of 2026 and did not meet the deadline, the supplier would be considered a responsible bidder under the proposed rule.

This is not just a hypothetical concern. For example, the meatpacking company JBS' emissions rose by an estimated 51 percent between 2016 and 2021 according to an analysis by IATP.[61] In 2021, JBS made a dubious 2040 net-zero commitment and has submitted targets for consideration to SBTi, but its commitment includes no plan to slow the rapid growth of its carbon-intensive operations.[62] Meanwhile, JBS is only reporting on three percent of its emissions through CDP. Hopefully the proposed rule would compel JBS to at least report on its full Scope 3 emissions, but as drafted, nothing in the proposed rule would prevent continued government contracts going to JBS, or its subsidiary, Pilgrim's Pride which would be considered a major supplier based on its recent contracting history, even if it were to increase its emissions at the same rate it has over the past five years.

This loophole undermines the good and important intention of the rule to leverage procurement to create accountability for federal suppliers' role in mitigating the climate crisis. Without a mechanism for ensuring accountability after targets have been established and approved, there would be few incentives, especially for privately-owned companies, to actually work toward achieving the targets.

To remediate this, we recommend amending the FAR to direct acquisition managers to consider major suppliers' progress toward meeting their established science-based targets as part of past performance evaluation. If a supplier has failed to meet its science-based target by the deadline the company set, the bidder should be considered nonresponsible until it has met the target. The FAR could direct acquisition managers to consider the same exceptions outlined in 9.104-3 in determining whether to consider a company "off track" for the purposes of a past performance evaluation or in determining whether a supplier that has not met a science-based target by the deadline should be considered nonresponsible.

[61] Sharma, Shefali. "The great climate greenwash: Global meat giant JBS' emissions leap by 51% in five years," (2022). https://www.iatp.org/jbs-emissions-rising-despite-net-zero-pledge

[62] Lilliston, Ben. "Behind the Curtain of JBS' Net Zero Pledge," (2021). https://www.iatp.org/documents/behind-curtain-jbs-net-zero-pledge

c. **Require all major federal suppliers – including those classified as small businesses – to disclose their full GHG emissions and establish an approved science-based target.**

Any supplier with the capability of providing more than $50 million annually in goods and services to the federal government should also have the capability to disclose its scope 1, 2, and 3 emissions and establish a science-based target. An Earthjustice analysis found that in FY2022, at least 12 of the 43 major food suppliers could be classified as small businesses under the proposed rule. These companies collectively received $968 million in FY 2022, accounting for 12 percent of total food spending and 23 percent of food spending in contracts with major suppliers.[63] Excluding these businesses would obscure the federal government's ability to adequately track and reduce its procurement-related GHG emissions.

V. In conclusion, requiring supplier emission disclosure and reduction is indispensable to the goal of leveraging federal food purchasing to reduce climate risks and their associated economic and social tolls.

The federal government's current food procurement model is fueling the status quo food system and the grave climate risks that come with it. But by the same token, federal food procurement has the potential to catalyze the climate-friendly and sustainable food system that we desperately need. By requiring major suppliers to disclose their emissions (particularly their Scope 3 emissions) and climate-related risks and to set science-based absolute reduction targets, the federal government can better measure and manage its own procurement-related emissions and create a positive ripple effect throughout the entire economy. Thank you for your consideration, and we urge final adoption of this proposed rule.

Respectfully submitted,

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[63] Analysis completed by Earthjustice in January 2023 using data from sam.gov, fpds.gov, and usaspending.gov.